

IN THE SUPREME COURT OF THE STATE OF DELAWARE

HAROLD STEVENSON,	§	
	§	No. 351, 2006
Defendant Below,	§	
Appellant,	§	Court Below–Superior Court
	§	of the State of Delaware in
v.	§	and for Kent County
	§	
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	Cr. ID No. 0301013593
Appellee.	§	

Submitted: October 24, 2006

Decided: January 19, 2007

Before **HOLLAND, BERGER** and **JACOBS**, Justices.

ORDER

This 19th day of January 2007, upon consideration of the brief filed pursuant to Supreme Court Rule 26(c) (“Rule 26(c)”), the motion to withdraw filed by the appellant’s counsel, and the State’s response to the Rule 26(c) brief, it appears to the Court that:

(1) In 2003, the appellant, Harold Stevenson, pleaded guilty to Robbery in the First Degree and was sentenced to ten years at Level V suspended after three years for three years of work release and probation. On direct appeal, this Court affirmed.¹

¹*Stevenson v. State*, 2003 WL 22317049 (Del. Supr.).

(2) In June 2006, Stevenson was charged with having violated a condition of Level IV work release when he failed to return as scheduled to the Morris Community Corrections Center. At a hearing, Stevenson admitted that he violated the condition, but he maintained that he did so only because he was upset at having learned that he was not the father of his pregnant girlfriend's unborn child.

(3) At the conclusion of the hearing, the Superior Court adjudged Stevenson guilty of violation of probation and sentenced him to seven years at Level V suspended after one year and upon successful completion of the Key Program for one year at Level IV Crest Program suspended upon successful completion for one year at Level III Aftercare. This appeal followed.

(4) On appeal, Stevenson's counsel ("Counsel") has filed a brief and a motion to withdraw pursuant to Rule 26(c). The standard and scope of review that applies to the consideration of a motion to withdraw and an accompanying brief under Rule 26(c) is twofold. First, the Court must be satisfied that Counsel made a conscientious examination of the record and the law for claims that could arguably support the appeal.² Second, the Court must conduct its

²*Penon v. Ohio*, 488 U.S. 75, 83 (1988); *McCoy v. Court of Appeals of Wisconsin*, 486 U.S. 429, 442 (1988); *Anders v. California*, 386 U.S. 738, 744 (1967).

own review of the record and determine whether the appeal is so devoid of at least arguably appealable issues that it can be decided without an adversary presentation.³

(5) Counsel asserts that he “made a conscientious examination of the record and the law” and found no arguably appealable issues. Counsel also states that he informed Stevenson of the provisions of Rule 26(c), including Stevenson’s right to supplement Counsel’s presentation, and mailed a copy of the motion to withdraw and the Rule 26(c) brief to Stevenson on September 9, 2006.

(6) Stevenson did not submit a written response to Counsel’s motion to withdraw, and he did not submit any points for the Court’s consideration.⁴ In its response to the Rule 26(c) brief, the State argues that, in the absence of any issues presented to the Court for consideration, the Court should affirm the Superior Court judgment.

(7) The Court has reviewed the record carefully and has concluded that Stevenson’s appeal is wholly without merit and devoid of any arguably appealable issue. We are satisfied that Counsel made a conscientious effort to

³*Id.*

⁴Counsel relates that Stevenson told him at a video conference on October 12, 2006, that Stevenson did not have any points to raise.

examine the record and the law and properly determined that Stevenson could not raise a meritorious claim in this appeal.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED. The motion to withdraw is moot.

BY THE COURT:

/s/ Carolyn Berger
Justice